

Senate File 2359 - Introduced

SENATE FILE 2359
BY COMMITTEE ON AGRICULTURE
(SUCCESSOR TO SF 2107)

A BILL FOR

1 An Act relating to motor fuel by establishing standards for
2 the sale of such fuel, modifying income tax credits, making
3 penalties applicable, and including effective date and
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 214A.1, Code 2009, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 13A. "*High ethanol blended gasoline*" means
4 ethanol blended gasoline classified as E-11 or higher pursuant
5 to section 214A.2.

6 NEW SUBSECTION. 17A. "*Nonblended gasoline*" means gasoline
7 other than ethanol blended gasoline.

8 Sec. 2. Section 214A.2, subsection 3, paragraph b,
9 subparagraph (4), subparagraph division (b), Code Supplement
10 2009, is amended by striking the subparagraph division and
11 inserting in lieu thereof the following:

12 (b) High ethanol blended gasoline other than E-85 gasoline,
13 to the extent authorized by the department pursuant to approval
14 for the use of that classification of ethanol blended gasoline
15 in this state by the United States environmental protection
16 agency.

17 Sec. 3. NEW SECTION. **214A.2C Motor fuel quality standard**
18 **for gasoline.**

19 Except as expressly provided otherwise in section 214A.2D, a
20 retail dealer shall not advertise, sell, or dispense nonblended
21 gasoline in this state.

22 Sec. 4. NEW SECTION. **214A.2D Motor fuel quality standard**
23 **for gasoline — exceptions and conditions.**

24 1. Notwithstanding section 214A.2C, a retail dealer may
25 advertise, sell, or dispense nonblended gasoline in this state
26 used to operate a motor which powers a qualified motor vehicle
27 which is any one of the following:

28 a. An aircraft as defined in section 328.1.

29 b. A motor vehicle used exclusively for motor sports,
30 including on a raceway, if the motor vehicle cannot operate on
31 a highway as provided in chapter 321 or rules adopted by the
32 state department of transportation.

33 c. An antique vehicle registered under section 321.115.

34 d. A snowmobile as defined in section 321G.1.

35 e. An all-terrain vehicle as defined in section 321I.1.

1 *f.* A watercraft as defined in section 462A.2.

2 *g.* A lawnmower or other yard or garden implement powered by
3 a small motor.

4 2. *a.* A retail dealer that advertises, sells, or dispenses
5 nonblended gasoline in this state as provided in subsection 1
6 shall not use more than one motor fuel pump located at a retail
7 motor fuel site to advertise, sell, or dispense nonblended
8 gasoline.

9 *b.* Paragraph "a" does not apply to a motor fuel site that
10 dispenses fuel only to qualified motor vehicles as described
11 in subsection 1, including but not limited to any of the
12 following:

13 (1) An airport or other landing area, including hangers and
14 appurtenant buildings used by aircraft.

15 (2) A raceway or other area where motor vehicles used
16 exclusively for motor sports operate, if such motor vehicles
17 cannot operate on a highway as provided in chapter 321 or rules
18 adopted by the state department of transportation.

19 (3) A marina where watercraft are customarily secured to
20 moorings or docks during climatic seasons.

21 3. Notwithstanding section 214A.2C, a retail dealer may
22 advertise, sell, or dispense nonblended gasoline at a retail
23 motor fuel site owned or operated by the retail dealer pursuant
24 to a waiver issued by the department to the retail dealer.

25 Notwithstanding subsection 2, the retail dealer who is granted
26 a waiver may advertise, sell, or dispense nonblended gasoline
27 from any number of motor fuel pumps located at the retail motor
28 fuel site.

29 *a.* The department shall only issue a waiver to a retail
30 dealer after approving an application submitted to the
31 department by the retail dealer in a manner and according
32 to procedures required by the department which application
33 demonstrates that the retail dealer is not able to reasonably
34 obtain ethanol blended gasoline for sale at the retail motor
35 fuel site.

1 *b.* A waiver issued under this subsection expires thirty days
2 from the date of issuance. However, a retail dealer who has
3 been issued a waiver may apply for and be issued any number of
4 subsequent waivers.

5 4. *a.* Notwithstanding section 214A.2C, a retail dealer may
6 advertise, sell, or dispense nonblended gasoline at a retail
7 motor fuel site owned or operated by the retail dealer until
8 January 1, 2011.

9 *b.* This subsection is repealed on January 1, 2011.

10 Sec. 5. Section 214A.3, subsection 1, Code Supplement 2009,
11 is amended by adding the following new paragraph:

12 NEW PARAGRAPH. *d.* Falsely advertise that a motor fuel is a
13 renewable fuel or is not a renewable fuel.

14 Sec. 6. Section 214A.3, subsection 2, Code Supplement 2009,
15 is amended to read as follows:

16 2. For a renewable fuel, all of the following apply:

17 *a.* A person shall not knowingly falsely advertise ~~that~~
18 ~~a motor fuel is a renewable fuel or is not a renewable~~
19 ~~fuel~~ ethanol blended gasoline by using an inaccurate
20 designation as provided in section 214A.2. However, all of the
21 following apply:

22 ~~*b.* (1) Ethanol blended gasoline sold by a dealer shall~~
23 ~~be designated according to its classification as provided in~~
24 ~~section 214A.2. However, a~~ A person advertising E-9 or E-10
25 gasoline may only designate it as ethanol blended gasoline.

26 (2) A person advertising ethanol blended gasoline
27 formulated with a percentage of between seventy and eighty-five
28 percent by volume of ethanol shall designate it as E-85. A
29 ~~person shall not knowingly falsely advertise ethanol blended~~
30 ~~gasoline by using an inaccurate designation in violation of~~
31 ~~this subparagraph.~~

32 (3) A person advertising ethanol blended gasoline dispensed
33 from a motor fuel blender pump may designate it according to
34 a variance to the designation as may be established by rules
35 adopted by the department.

1 ~~(2)~~ b. A person shall not knowingly falsely advertise
2 biodiesel fuel by using an inaccurate designation as provided
3 in section 214A.2.

4 3. A person who advertises the sale of gasoline that is
5 not ethanol blended gasoline shall refer to the gasoline as
6 nonblended gasoline.

7 Sec. 7. Section 214A.16, Code Supplement 2009, is amended
8 to read as follows:

9 214A.16 Notice of renewable fuel — decal Motor fuel pump
10 labels.

11 1. a. If ethanol blended gasoline is sold from a motor
12 fuel pump, the motor fuel pump shall have affixed a decal
13 identifying the ethanol blended gasoline. If the motor fuel
14 pump dispenses ethanol blended gasoline classified as higher
15 than standard ethanol blended gasoline pursuant to section
16 214A.2, the decal shall ~~contain the following notice: "FOR~~
17 ~~FLEXIBLE FUEL VEHICLES ONLY"~~ identify the ethanol blended
18 gasoline for flexible fuel vehicles only.

19 b. If nonblended gasoline is sold from a motor fuel pump,
20 the motor fuel pump shall have affixed a decal specifying that
21 state law prohibits dispensing nonblended gasoline for use in
22 motor vehicles except as allowed in section 214A.2C.

23 c. If biodiesel fuel is sold from a motor fuel pump, the
24 motor fuel pump shall have affixed a decal identifying the
25 biodiesel fuel as provided in 16 C.F.R. pt. 306.

26 2. The design and location of ~~the~~ a decal shall be
27 prescribed by rules adopted by the department. A decal
28 identifying a renewable fuel shall be consistent with standards
29 adopted pursuant to section 159A.6. The department may approve
30 an application to place a decal in a special location on a
31 motor fuel pump or container or use a decal with special
32 lettering or colors, if the decal appears clear and conspicuous
33 to the consumer. The application shall be made in writing
34 pursuant to procedures adopted by the department.

35 Sec. 8. Section 422.11N, subsection 1, paragraph a, Code

1 2009, is amended to read as follows:

2 *a.* "E-85 gasoline", "ethanol", "ethanol blended gasoline",
3 "gasoline", "high ethanol blended gasoline", and "retail dealer"
4 mean the same as defined in section 214A.1.

5 Sec. 9. Section 422.11N, subsection 5, paragraph a,
6 unnumbered paragraph 1, Code 2009, is amended to read as
7 follows:

8 For a retail dealer whose tax year is the same as a
9 determination period beginning on January 1 and ending on
10 December 31, the retail dealer's tax credit is calculated by
11 multiplying the retail dealer's total ethanol gallonage for
12 high ethanol blended gasoline by a tax credit rate, which may
13 be adjusted based on the retail dealer's biofuel threshold
14 percentage disparity. The tax credit rate is as follows:

15 Sec. 10. Section 422.11O, subsection 3, paragraphs a
16 through 1, Code 2009, are amended to read as follows:

17 ~~*a.* For calendar year 2006, calendar year 2007, and calendar~~
18 ~~year 2008, twenty five cents.~~

19 ~~*b.* For calendar year 2009 and calendar year 2010, twenty~~
20 ~~cents.~~

21 ~~*e.* *b.*~~ For calendar year 2011, ~~ten~~ twenty cents.

22 ~~*d.* *c.*~~ For calendar year 2012, ~~nine~~ nineteen cents.

23 ~~*e.* *d.*~~ For calendar year 2013, ~~eight~~ eighteen cents.

24 ~~*f.* *e.*~~ For calendar year 2014, ~~seven~~ seventeen cents.

25 ~~*g.* *f.*~~ For calendar year 2015, ~~six~~ sixteen cents.

26 ~~*h.* *g.*~~ For calendar year 2016, ~~five~~ fifteen cents.

27 ~~*i.* *h.*~~ For calendar year 2017, ~~four~~ fourteen cents.

28 ~~*j.* *i.*~~ For calendar year 2018, ~~three~~ thirteen cents.

29 ~~*k.* *j.*~~ For calendar year 2019, ~~two~~ twelve cents.

30 ~~*l.* *k.*~~ For calendar year 2020, ~~one cent~~ ten cents.

31 Sec. 11. Section 452A.31, subsection 2, Code 2009, is
32 amended to read as follows:

33 2. *a.* A retail dealer's total gasoline gallonage is the
34 total number of gallons of gasoline which the retail dealer
35 sells and dispenses from all motor fuel pumps operated by

1 the retail dealer in this state during a twelve-month period
2 beginning January 1 and ending December 31. The retail
3 dealer's total gasoline gallonage is divided into the following
4 classifications:

5 (1) The total ethanol blended gasoline gallonage which
6 is the retail dealer's total number of gallons of ethanol
7 blended gasoline and which includes all of the following
8 subclassifications:

9 (a) The total ~~E-85~~ E-9 and E-10 ethanol blended gasoline
10 gallonage which is the total number of gallons of ethanol
11 blended gasoline other than E-85 gasoline designated as E-9 or
12 E-10 pursuant to section 214A.2.

13 (b) The total high ethanol blended gasoline gallonage which
14 is the total number of gallons of ethanol blended gasoline
15 designated as E-11 or higher pursuant to section 214A.2.

16 (c) The total high ethanol blended gasoline gallonage not
17 counting the total E-85 gasoline gallonage.

18 (d) The total E-85 gasoline gallonage which is the total
19 number of gallons of E-85 gasoline.

20 (2) The total nonblended gasoline gallonage which is the
21 total number of gallons of nonblended ethanol gasoline.

22 b. A retail dealer's total ethanol gallonage is the total
23 number of gallons of ethanol which is a component of ethanol
24 blended gasoline which the retail dealer sells and dispenses
25 from motor fuel pumps as provided in paragraph "a" during a
26 twelve-month period beginning January 1 and ending December 31.
27 The retail dealer's total ethanol gallonage includes all of the
28 following classifications:

29 (1) The total ethanol gallonage for ethanol blended
30 gasoline other than high ethanol blended gasoline which is the
31 total number of gallons of ethanol which is a component of
32 ethanol blended gasoline designated as E-9 or E-10 pursuant to
33 section 214A.2.

34 (2) The total ethanol gallonage for high ethanol blended
35 gasoline which is the total number of gallons of ethanol which

1 is a component of ethanol blended gasoline designated as E-11
2 or higher pursuant to section 214A.2.

3 Sec. 12. Section 452A.31, subsection 4, Code 2009, is
4 amended to read as follows:

5 4. a. The aggregate gasoline gallonage is the total
6 number of gallons of gasoline which all retail dealers sell
7 and dispense from all motor fuel pumps operated by the retail
8 dealers in this state during a twelve-month period beginning
9 January 1 and ending December 31. The aggregate gasoline
10 gallonage is divided into the following classifications:

11 (1) The aggregate ethanol blended gasoline gallonage
12 which is the aggregate total number of gallons of ethanol
13 blended gasoline and which includes all of the following
14 subclassifications:

15 (a) The aggregate ~~E-xx~~ E-9 and E-10 gasoline gallonage which
16 is the aggregate total number of gallons of ethanol blended
17 gasoline ~~other than E-85~~ gasoline designated as E-9 or E-10
18 pursuant to section 214A.2.

19 (b) The aggregate high ethanol blended gasoline gallonage
20 which is the aggregate number of gallons of ethanol blended
21 gasoline designated as E-11 or higher pursuant to section
22 214A.2.

23 (c) The aggregate high ethanol blended gasoline gallonage
24 not counting the aggregate E-85 gasoline gallonage.

25 (d) The aggregate E-85 gasoline gallonage which is the
26 aggregate total number of gallons of E-85 gasoline.

27 (2) The aggregate nonblended gasoline gallonage, which is
28 the aggregate number of gallons of nonblended ethanol gasoline.

29 b. The aggregate ethanol gallonage is the total number of
30 gallons of ethanol which is a component of ethanol blended
31 gasoline which all retail dealers sell and dispense from motor
32 fuel pumps as provided in paragraph "a" during a twelve-month
33 period beginning January 1 and ending December 31. The
34 aggregate ethanol gallonage includes all of the following
35 classifications:

1 The bill also creates a new designation for high ethanol
2 blended gasoline which is E-11 or higher.

3 EXCEPTIONS. Notwithstanding the prohibition, the bill
4 allows a retail dealer to continue to advertise, sell, or
5 dispense nonblended gasoline in limited circumstances. First,
6 the prohibition does not apply to gasoline used to operate
7 certain qualified motor vehicles, including aircraft, motor
8 vehicles involved exclusively in motor sports events, antique
9 vehicles, snowmobiles, all-terrain vehicles, watercraft, and
10 lawnmowers. The bill prohibits a retail dealer from using
11 more than one motor fuel pump to dispense nonblended gasoline,
12 unless the motor fuel site primarily serves qualified motor
13 vehicles. Second, the prohibition does not apply to a retail
14 dealer who has been issued a waiver by the department because
15 the retail dealer has not been able to reasonably obtain
16 ethanol blended gasoline for sale at the retail motor fuel
17 site. The waiver expires 30 days from the date of issuance.
18 However, a retail dealer who has been issued a waiver may apply
19 for any number of subsequent waivers. Third, a retail dealer
20 may continue to advertise, sell, or dispense unblended gasoline
21 from one or more metered pumps located at a retail motor fuel
22 site until January 1, 2011.

23 ADVERTISING. The bill allows a person advertising ethanol
24 blended gasoline from a blender pump to designate it according
25 to a variance established by the department. The bill provides
26 that a person who advertises the sale of gasoline that is
27 not ethanol blended gasoline must refer to it as nonblended
28 gasoline.

29 MOTOR FUEL PUMPS. The bill provides that nonblended
30 gasoline sold from a motor fuel must have affixed a decal
31 specifying that state law prohibits dispensing nonblended
32 gasoline for use in motor vehicles other than qualifying motor
33 vehicles.

34 ETHANOL PROMOTION TAX CREDIT. The bill amends the ethanol
35 promotion tax credit which allows retail dealers to claim a tax

1 credit based on the dealer's biofuel distribution percentage,
2 which is the sum of the retail dealer's total ethanol gallonage
3 plus the retail dealer's total biodiesel gallonage expressed as
4 a percentage of the retail dealer's total gasoline gallonage in
5 the retail dealer's applicable determination period (calendar
6 year). The retail dealer's total ethanol gallonage must meet a
7 biofuel threshold percentage which increases each year until
8 it reaches 25 percent for the determination period beginning
9 on and after January 1, 2021. For any tax year in which the
10 retail dealer has attained a biofuel threshold percentage for a
11 determination period, the tax credit rate is 6.5 cents for each
12 gallon of ethanol sold (the total ethanol gallonage). For any
13 tax year in which the retail dealer has not attained a biofuel
14 threshold percentage for a determination period, the tax credit
15 rate must be adjusted lower based on the disparity. The bill
16 provides that the tax credit is based on the total ethanol
17 gallonage only for high ethanol blended gasoline (it does not
18 include ethanol contained in E-9 or E-10 but does include
19 ethanol contained in E-85 gasoline).

20 E-85 GASOLINE PROMOTION TAX CREDIT. A retail dealer who
21 sells and dispenses E-85 gasoline from motor fuel pumps is
22 eligible to receive a tax credit. The tax credit rate is
23 calculated on each gallon of E-85 gasoline which is sold and
24 dispensed by the retail dealer on a calendar year basis,
25 regardless of the number of gallons of ethanol used to
26 blend the motor fuel (between 70 and 85 percent ethanol) and
27 decreases each year based on a schedule that ends on December
28 2020. The bill increases the amount of the tax credit for each
29 year of the schedule.

30 EFFECTIVE DATE. The bill takes effect on January 1, 2011,
31 and applies to tax years beginning on or after that date.